

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference LeA 36955-WO	FOR FURTHER ACTION	See item 4 below
International application No. PCT/EP2005/000075	International filing date (<i>day/month/year</i>) 07 January 2005 (07.01.2005)	Priority date (<i>day/month/year</i>) 17 January 2004 (17.01.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant LANXESS DEUTSCHLAND GMBH		

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).																								
2.	This REPORT consists of a total of 7 sheets, including this cover sheet. In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.																								
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 60%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).																								

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Date of issuance of this report 03 October 2006 (03.10.2006)</td> </tr> <tr> <td style="padding: 2px;"> Authorized officer <div style="text-align: right; font-weight: bold;">Yolaine Cussac</div> </td> </tr> <tr> <td style="padding: 2px;">e-mail: pt11@wipo.int</td> </tr> </table>	Date of issuance of this report 03 October 2006 (03.10.2006)	Authorized officer <div style="text-align: right; font-weight: bold;">Yolaine Cussac</div>	e-mail: pt11@wipo.int
Date of issuance of this report 03 October 2006 (03.10.2006)				
Authorized officer <div style="text-align: right; font-weight: bold;">Yolaine Cussac</div>				
e-mail: pt11@wipo.int				

PATENT COOPERATION TREATY

TRANSLATION

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

Date of mailing **See form PCT/ISA/210**
(day/month/year)

Applicant's or agent's file reference

LeA 36955-WO

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2005/000075

International filing date (day/month/year)

07.01.2005

Priority date (day/month/year)

17.01.2004

International Patent Classification (IPC) or both national classification and IPC

C08F8/04, C08C19/02

Applicant

LANXESS DEUTSCHLAND GMBH

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/EP2005/000075

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2005/000075

Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims		YES
	Claims	1-6	NO
Inventive step (IS)	Claims		YES
	Claims	1-6	NO
Industrial applicability (IA)	Claims	1-6	YES
	Claims		NO
2. Citations and explanations:			
<p>1. Reference is made to the following documents of the international search report:</p> <p style="margin-left: 40px;">D1: WO-A-03/029307 (Japanese document which is reflected in the contents of the English-language family member EP-A-1 454 924)</p> <p style="margin-left: 40px;">D2: PATENT ABSTRACTS OF JAPAN vol. 1995, no. 01, 28 February 1995 (1995-02-28) & JP-A-06 287219</p> <p style="margin-left: 40px;">D3: PATENT ABSTRACTS OF JAPAN vol. 007, no. 069 (C-158), 23 March 1983 (1983-03-23) & JP-A-58 005304</p> <p style="margin-left: 40px;">D4: MAYER ANDREA B R ET AL: "Platinum nanocatalysts immobilized on latex supports" J POLYM SCI PART B; JOURNAL OF POLYMER SCIENCE, PART B POLYMER PHYSICS JUN 1997 JOHN WILEY & SONS INC, NEW YORK, NY, USA, vol. 35, no. 8, June 1997 (1997-06) pages 1207-1216.</p> <p style="margin-left: 40px;">D5: NAKAO, YUKIMICHI ET AL: "Colloidal nickel boride catalyst for hydrogenation of olefins" JOURNAL OF CATALYSIS, 68(2), 406-10 CODEN: JCTLA5; ISSN: 0021-9517, 1981.</p> <p>2. The hydrogenation process according to claims 1-6 is</p>			

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Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

not novel (PCT Article 33(2) and/or is obvious
(PCT Article 33(3)), in particular in view of the
disclosure of document D1 (cf. the relevant passages
of the corresponding EP-A-1454924 as per the search
report).

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/EP2005/000075

Box No. VII **Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

Contrary to PCT Rule 5.1(a)(ii), the description does not cite documents D1 to D5 or indicate the relevant prior art disclosed therein.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/000075

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. In the second line of claim 6, the word "temperatures" has been used instead of "hydrogen pressures" (cf. page 6, lines 13-14), PCT Article 6.
2. The description on page 4, lines 3-5 (cf. also page 8, comparative example 1.1 (pH 14) and working example 1.1 (pH 5) and the table on page 10) indicate that the following feature is essential to the definition of the invention:
 - the additional feature according to claim 4.

Since independent claim 1 does not contain this feature, it does not meet the requirement of PCT Article 6 in conjunction with PCT Rule 6.3(b) that each independent claim must include all the technical features essential to the definition of the invention.

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c. time of filing/furnishing

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(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

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Applicant LANXESS DEUTSCHLAND GMBH		

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2. This REPORT consists of a total of 6 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
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The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Date of issuance of this report 17 July 2006 (17.07.2006) Authorized officer <p style="text-align: center; font-weight: bold;">Yolaine Cussac</p> e-mail: pt11@wipo.int
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VERTRAG ÜBER DIE INTERNATIONALE ZUSAMMENARBEIT AUF DEM GEBIET DES PATENTWESENS

Absender: INTERNATIONALE RECHERCHENBEHÖRDE

17/04

PCT REC'D 17 MAY 2005

WIPO

PCT

An:

siehe Formular PCT/SA/220

SCHRIFTLICHER BESCHEID DER INTERNATIONALEN RECHERCHENBEHÖRDE (Regel 43bis.1 PCT)

Absenddatum
(Tag/Monat/Jahr) siehe Formular PCT/SA/210 (Blatt 2)

Aktenzeichen des Anmelders oder Anwalts
siehe Formular PCT/SA/220

WEITERES VORGEHEN
siehe Punkt 2 unten

Internationales Aktenzeichen
PCT/EP2005/000075

Internationales Anmeldedatum (Tag/Monat/Jahr)
07.01.2005

Prioritätsdatum (Tag/Monat/Jahr)
17.01.2004

Internationale Patentklassifikation (IPK) oder nationale Klassifikation und IPK
C08F8/04, C08C19/02

Anmelder
LANXESS DEUTSCHLAND GMBH

1. Dieser Bescheid enthält Angaben zu folgenden Punkten:

- ☒ Feld Nr. I Grundlage des Bescheids
- ☐ Feld Nr. II Priorität
- ☐ Feld Nr. III Keine Erstellung eines Gutachtens über Neuheit, erfinderische Tätigkeit und gewerbliche Anwendbarkeit
- ☐ Feld Nr. IV Mangelnde Einheitlichkeit der Erfindung
- ☒ Feld Nr. V Begründete Feststellung nach Regel 43bis.1(a)(I) hinsichtlich der Neuheit, der erfinderischen Tätigkeit und der gewerblichen Anwendbarkeit; Unterlagen und Erklärungen zur Stützung dieser Feststellung
- ☐ Feld Nr. VI Bestimmte angeführte Unterlagen
- ☒ Feld Nr. VII Bestimmte Mängel der Internationalen Anmeldung
- ☒ Feld Nr. VIII Bestimmte Bemerkungen zur Internationalen Anmeldung

2. WEITERES VORGEHEN

Wird ein Antrag auf internationale vorläufige Prüfung gestellt, so gilt dieser Bescheid als schriftlicher Bescheid der mit der internationalen vorläufigen Prüfung beauftragten Behörde ("IPEA"); dies trifft nicht zu, wenn der Anmelder eine andere Behörde als diese als IPEA wählt und die gewählte IPEA dem internationalen Büro nach Regel 66.1bis b) mitgeteilt hat, daß schriftliche Bescheide dieser internationalen Recherchenbehörde nicht anerkannt werden.

Wenn dieser Bescheid wie oben vorgesehen als schriftlicher Bescheid der IPEA gilt, so wird der Anmelder aufgefordert, bei der IPEA vor Ablauf von 3 Monaten ab dem Tag, an dem das Formblatt PCT/SA/220 abgesandt wurde oder vor Ablauf von 22 Monaten ab dem Prioritätsdatum, je nachdem, welche Frist später abläuft, eine schriftliche Stellungnahme und, wo dies angebracht ist, Änderungen einzureichen.

Weitere Optionen siehe Formblatt PCT/SA/220.

3. Nähere Einzelheiten siehe die Anmerkungen zu Formblatt PCT/SA/220.

Name und Postanschrift der mit der internationalen Recherchenbehörde



Europäisches Patentamt
D-80298 München
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Bevollmächtigter Bediensteter

Hollender, C

Tel. +49 89 2399-8185



**SCHRIFTLICHER BESCHEID DER
INTERNATIONALEN RECHERCHEBEHÖRDE**

Internationales Aktenzeichen
PCT/EP2005/000075

Feld Nr. I Grundlage des Bescheids

1. Hinsichtlich der **Sprache** ist der Bescheid auf der Grundlage der internationalen Anmeldung in der Sprache erstellt worden, in der sie eingereicht wurde, sofern unter diesem Punkt nichts anderes angegeben ist.
 - ☐ Der Bescheid ist auf der Grundlage einer Übersetzung aus der Originalsprache in die folgende Sprache erstellt worden, bei der es sich um die Sprache der Übersetzung handelt, die für die Zwecke der internationalen Recherche eingereicht worden ist (gemäß Regeln 12.3 und 23.1 b)).
2. Hinsichtlich der **Nucleotid- und/oder Aminosäuresequenz**, die in der internationalen Anmeldung offenbart wurde und für die beanspruchte Erfindung erforderlich ist, ist der Bescheid auf folgender Grundlage erstellt worden:
 - a. Art des Materials
 - ☐ Sequenzprotokoll
 - ☐ Tabelle(n) zum Sequenzprotokoll
 - b. Form des Materials
 - ☐ in schriftlicher Form
 - ☐ in computerlesbarer Form
 - c. Zeitpunkt der Einreichung
 - ☐ in der eingereichten internationalen Anmeldung enthalten
 - ☐ zusammen mit der internationalen Anmeldung in computerlesbarer Form eingereicht
 - ☐ bei der Behörde nachträglich für die Zwecke der Recherche eingereicht
3. ☐ Wurden mehr als eine Version oder Kopie eines Sequenzprotokolls und/oder einer dazugehörigen Tabelle eingereicht, so sind zusätzlich die erforderlichen Erklärungen, daß die Information in den nachgereichten oder zusätzlichen Kopien mit der Information in der Anmeldung in der eingereichten Fassung übereinstimmt bzw. nicht über sie hinausgeht, vorgelegt worden.
4. Zusätzliche Bemerkungen:

**SCHRIFTLICHER BESCHEID DER
INTERNATIONALEN RECHERCHEBEHÖRDE**

Internationales Aktenzeichen
PCT/EP2005/000075

**Feld Nr. V Begründete Feststellung nach Regel 43b/s.1(a)(i) hinsichtlich der Neuheit, der
erfinderischen Tätigkeit und der gewerblichen Anwendbarkeit; Unterlagen und Erklärungen zur
Stützung dieser Feststellung**

1. Feststellung

Neuheit	Ja: Ansprüche Nein: Ansprüche 1-6
Erfinderische Tätigkeit	Ja: Ansprüche Nein: Ansprüche 1-6
Gewerbliche Anwendbarkeit	Ja: Ansprüche: 1-6 Nein: Ansprüche:

2. Unterlagen und Erklärungen:

siehe Beiblatt

Feld Nr. VII Bestimmte Mängel der internationalen Anmeldung

Es wurde festgestellt, daß die internationale Anmeldung nach Form oder Inhalt folgende Mängel aufweist:

siehe Beiblatt

Feld Nr. VIII Bestimmte Bemerkungen zur internationalen Anmeldung

Zur Klarheit der Patentansprüche, der Beschreibung und der Zeichnungen oder zu der Frage, ob die Ansprüche in vollem Umfang durch die Beschreibung gestützt werden, ist folgendes zu bemerken:

siehe Beiblatt

**SCHRIFTLICHER BESCHEID
DER INTERNATIONALEN
RECHERCHEBEHÖRDE (BEIBLATT)**

Internationales Aktenzeichen

PCT/EP2005/000075

1. Es wird auf die folgenden Dokumente des internationalen Recherchenberichts verwiesen:
 - D1: WO-A-03/029307 (Japanisches Dokument, das durch den Inhalt des in englischer Sprache Familienmitglieds EP-A-1 454 924 widerspiegelt wird)
 - D2: PATENT ABSTRACTS OF JAPAN Bd. 1995, Nr. 01, 28. Februar 1995 (1995-02-28) & JP-A-06 287219
 - D3: PATENT ABSTRACTS OF JAPAN Bd. 007, Nr. 069 (C-158), 23. März 1983 (1983-03-23) & JP-A-58 005304
 - D4: MAYER ANDREA B R ET AL: "Platinum nanocatalysts immobilized on latex supports" J POLYM SCI PART B; JOURNAL OF POLYMER SCIENCE, PART B: POLYMER PHYSICS JUN 1997 JOHN WILEY & SONS INC, NEW YORK, NY, USA, Bd. 35, Nr. 8, Juni 1997 (1997-06), Seiten 1207-1216.
 - D5: NAKAO, YUKIMICHI ET AL: "Colloidal nickel boride catalyst for hydrogenation of olefins" JOURNAL OF CATALYSIS , 68(2), 406-10 CODEN: JCTLA5; ISSN: 0021-9517, 1981.
2. Das Verfahren zur Hydrierung gemäß den Ansprüchen 1-6 ist nicht neu (Artikel 33(2) PCT) und/oder naheliegend (Art. 33(3) PCT), insbesondere im Hinblick auf die Offenbarung gemäß Dokument D1 (vgl. die relevante Passagen der entsprechende EP-A-1454924 gemäß Recherchenbericht).

Zu Punkt VII.

Im Widerspruch zu den Erfordernissen der Regel 5.1 a) ii) PCT werden in der Beschreibung weder der in den Dokumenten D1 bis D5 offenbarte einschlägige Stand der Technik noch diese Dokumente angegeben.

Zu Punkt VIII.

1. In der zweite Zeile von Anspruch 6, wurde "Temperaturen" statt "Wasserstoffdrucken" angegeben (vgl. S. 6, Z. 13-14), Art. 6 PCT.
2. Aus der Beschreibung auf Seite 4, Z. 3-5 (vgl. auch Seite 8, Vergleichsbeispiel 1.1

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(pH 14) und das Ausführungsbeispiel 1.1 (pH 5) und die Tabelle auf Seite 10) geht hervor, daß das folgende Merkmal für die Definition der Erfindung wesentlich ist:
- das zusätzliche Merkmal gemäß Anspruch 4.

Da der unabhängige Anspruch 1 dieses Merkmal nicht enthält, entspricht er nicht dem Erfordernis des Artikels 6 PCT in Verbindung mit Regel 6.3 b) PCT, daß jeder unabhängige Anspruch alle technischen Merkmale enthalten muß, die für die Definition der Erfindung wesentlich sind.